

AMENDED IN SENATE MAY 11, 2005

Senate Constitutional Amendment

No. 6

Introduced by Senator Cox

(Principal coauthor: Assembly Member Maze)

(Coauthors: Senators Aanestad, Ackerman, Battin, and Dutton)

(Coauthors: Assembly Members Benoit, DeVore, Haynes, Huff,
La Malfa, Leslie, Niello, and Spitzer)

February 7, 2005

Senate Constitutional Amendment No. 6—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 10 of Article V thereof, relating to the Governor.

LEGISLATIVE COUNSEL'S DIGEST

SCA 6, as amended, Cox. Gubernatorial succession: Governor's absence from state.

The California Constitution requires the Lieutenant Governor to act as the Governor of the state during impeachment, absence from the state, or other temporary disability of the Governor or of a Governor-elect who fails to take office.

This measure would delete absence from the ~~State~~ *state* as a basis for the exercise of that authority, ~~with the result and would specify~~ that the Lieutenant Governor would act as the Governor of the state ~~only~~ during ~~the~~ impeachment or temporary ~~disability~~ *inability* of the Governor ~~to discharge the powers and duties of the office, or of~~ if a Governor-elect ~~who~~ fails to take office.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

1 WHEREAS, The California Constitution presently provides
2 that the Lieutenant Governor serves as the Governor during the
3 Governor's absence from the state or other temporary disability;
4 and

5 WHEREAS, The California Supreme Court in *In Re*
6 *Governorship* (1979) 26 Cal.3d 110 has interpreted this to mean
7 the physical nonpresence of the Governor, and this has been the
8 interpretation of "absence from the state" since 1849; and

9 WHEREAS, Modern conditions of travel, communication, and
10 technology have eliminated the objections that the drafters of the
11 early Constitution might have had to permitting the Governor to
12 act from outside the state or to permitting postponement of
13 gubernatorial actions until his or her return; and

14 WHEREAS, Most travels by modern Governors are for
15 official state purposes and involve formal meetings with federal
16 officials, other out-of-state officials, or overseas investors when
17 the state is seeking funding or participating in major joint-state or
18 federal projects; now, therefore, be it

19 *Resolved by the Senate, the Assembly concurring*, That the
20 Legislature of the State of California at its 2005-06 Regular
21 Session commencing on the sixth day of December 2004,
22 two-thirds of the membership of each house concurring, hereby
23 proposes to the people of the State of California that the
24 Constitution of the State be amended as follows:

25 That Section 10 of Article V thereof is amended to read:

26 SEC. 10. The Lieutenant Governor shall become Governor
27 when a vacancy occurs in the office of Governor.

28 The Lieutenant Governor shall act as Governor during the
29 impeachment or temporary disability of the Governor *inability of*
30 *the Governor to discharge the powers and duties of the office*, or
31 ~~or if~~ a Governor-elect who fails to take office.

32 The Legislature shall provide an order of precedence after the
33 Lieutenant Governor for succession to the office of Governor and
34 for the temporary exercise of the Governor's functions.

35 The Supreme Court has exclusive jurisdiction to determine all
36 questions arising under this section.

- 1 Standing to raise questions of vacancy or temporary ~~disability~~
- 2 *inability of the Governor to discharge the powers and duties of*
- 3 *the office* is vested exclusively in a body provided by statute.